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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 05602.0267-00000	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 09/753,686	Filed January 4, 2001
		First Named Inventor Adrian E. Colley	
		Art Unit 2194	Examiner Van H. NGUYEN

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reasons stated on the attached sheets.

Note: No more than five (5) pages are provided.

I am the

- ☐ applicant/inventor.
☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.

☒ attorney or agent of record.
Registration number 36,743.

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Jeffrey A. Berkowitz, Reg. No. 57540
for _____
Signature

Jeffrey A. Berkowitz
Typed or printed name

571.203.2710
Telephone number

June 15, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.



Reasons for Request for Review

As set forth in the Official Gazette notice of July 12, 2005, pre-appeal brief review of a Final Office Action is appropriate when there are clear errors in the examiner's rejections or when the Examiner has omitted an essential element of a prima facie case to support a rejection. Both grounds are present in this case and Applicants therefore request the review and reversal of the claim rejections set forth in the Final Office Action.

In the Final Office Action, the Examiner rejected claims 19 and 21 under 35 U.S.C. § 112, 2nd paragraph, as being indefinite for lacking antecedent basis and rejected claims 1-9, 15, 17, and 19-22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,999,988 to *Pelegri-Llopart et al.*, a reference first cited in the Final Office Action. To correct the antecedent basis of claims 19 and 21 and to respond to the Examiner's application of the newly-cited reference, Applicants filed an Amendment After Final on May 15, 2006. In response, the Examiner issued an Advisory Action stating that the amendment would be entered but maintaining the claim rejections. (5/24/06 Advisory Action, pp. 1-2.)

I. The Examiner committed clear error by failing to respond to Applicant's arguments and amendments in response to the new reference used to reject all of the claims.

In response to Applicants' Amendment After Final, the Examiner erred by failing to "provide clear explanations of all actions taken by the examiner" as required by M.P.E.P. § 707.07(f). Rather than answering the substance of Applicants' arguments regarding the newly-cited *Pelegri-Llopart* reference, the Examiner merely stated that "Applicant's arguments filed on May 15, 2006 have been fully considered but they are not persuasive. The Examiner contends that the cited reference meets the claim

limitations as stated in the final rejection.” (5/24/06 Advisory Action, p. 2.) The Examiner erred by failing to state whether the amendments to claims 19 and 21, which were entered, overcame the rejections under 35 U.S.C. § 112, 2nd paragraph. The Examiner also erred in not responding to Applicants’ arguments regarding claim elements clearly missing from the newly-cited reference. Accordingly, Applicants’ request the pre-appeal brief review and withdrawal of the claim rejections.

II. The Examiner omitted essential elements of a prima facie case to support the section 102 rejections set forth in the Final Office Action.

The rejections of claims 1-9, 15, 17, and 19-22 under 35 U.S.C. § 102(b) as being anticipated by *Pelegri-Llopart et al.* are erroneous because the Examiner has not shown that the reference teaches every element recited in the claims, as required to support a proper section 102 rejection. M.P.E.P. § 2131.01 (8th ed. 2001, revised August 2005).

For example, claim 1 recites a method in a distributed system for passing a first object and a second object, wherein the first object and the second object are instances of a class, including, among other things, passing the first object from a sender to a recipient with a descriptor of the class and a handle corresponding to the descriptor. *Pelegri-Llopart et al.* does not disclose such a method.

In the system of *Pelegri-Llopart et al.*, a client application on a first virtual machine accesses a remote object on a second virtual machine using a stub object that is generated at run-time. (*Pelegri-Llopart et al.*, col. 5, ll. 64-66; Fig. 1.) In particular, the first virtual machine receives “a reference to the remote object... [that includes] information associated with the remote object and also includes a list of interfaces of the remote object.” (*Id.*, col. 4, ll. 19-22.) “After receiving the reference to the remote

object, the stub class generator...transforms at run-time the information associated with the remote object into a stub class that represents the remote object in the first virtual machine....” (*Id.*, col. 4, ll. 25-29.)

The Examiner has not shown that the system of *Pelegri-Llopart et al.* discloses **passing the first object** from the sender to the recipient. Instead, as the Examiner noted in the Final Office Action, *Pelegri-Llopart et al.* discloses passing only an “object reference [that] includes an interface descriptor and an object handle associated with the object (also referred to hereinafter as a remote object)....” (Final Office Action, p. 3; *Pelegri-Llopart et al.*, col. 8, ll. 57-60.) As clearly explained in the patent, what is passed is a reference to the remote object including “sufficient information so that [the] remote object may be accessed from the first virtual machine.” The remote object remains “implemented in a second virtual machine....” (*Pelegri-Llopart et al.*, Fig. 1; col. 8, ll. 1-8; col. 6, ll. 54-55.) Thus, the Examiner has not shown that the patent teaches passing the first object from a sender to a recipient with a descriptor of the class and a handle corresponding to the descriptor.

Claim 1 further recites the step of **passing the second object** from the sender to the recipient with the handle. The Examiner also has not shown that *Pelegri-Llopart et al.* teaches this step. Instead, the Examiner cited the same part of the patent for teaching this element, again noting that *Pelegri-Llopart et al.* discloses passing an “object reference [that] includes an interface descriptor and an object handle associated with the object (also referred to hereinafter as a remote object)....” (Final Office Action, p. 3; *Pelegri-Llopart et al.*, col. 8, ll. 57-60.) However, even if the object reference or object handle of *Pelegri-Llopart et al.* could be interpreted as teaching the claimed

handle, no teaching has been shown of passing the remote object with the object reference or object handle.

Furthermore, the Examiner has not shown any teaching of passing a first object with **a handle** and passing a second object with **the handle**. In the Office Action, the Examiner interprets the claimed handle as being taught by the object handle of *Pelegri-Llopart et al.* (Final Office Action, p. 3.) The patent explains that “[a]n object handle is simply sufficient information so that a remote object may be accessed from a first virtual machine (e.g., the client machine). Typically, an object handle includes a machine address, as well as, an identification specifying where on that machine the object resides.” (*Pelegri-Llopart et al.*, col. 8, ll. 6-9.) Under the Examiner’s interpretation of the teachings of the patent, the handle that is passed with the first object of claim 1 would be sufficient information to identify the first object (although, as discussed above, the Examiner has not shown a teaching of passing the first object). Continuing according to this interpretation, the handle passed with the second object of claim 1 would also be sufficient information to identify the first object. However, this would be contrary to the teachings of *Pelegri-Llopart et al.* because the purpose of passing an object handle is to enable the referenced remote object to be accessed from a first virtual machine. (*Id.*, col. 8, ll. 3-6.) Thus, the Examiner also has not shown a teaching of passing the second object from the sender to the recipient with the handle.

Because the Examiner has not shown a teaching of every element of claim 1 in *Pelegri-Llopart et al.*, the section 102 rejection of claim 1 is incomplete and Applicants therefore request its withdrawal. Claims 2-4 and 19-20 depend from claim 1 and incorporate its recitations. Because the Examiner has not shown a teaching in the

reference of every element of claim 1, he also has not shown a teaching of every element of dependent claims 2-4 and 19-20, and Applicants request the withdrawal of the section 102 rejections of claims 2-4 and 19-20.

Claims 5, 15, and 17, although varying in scope, contain similar recitations to those discussed above with respect to claim 1. Therefore, at least for the reasons discussed above with reference to claim 1, the Examiner has not shown a teaching of these elements of claims 5, 15, and 17 in *Pelegri-Llopart et al.* Therefore, the section 102 rejections of claims 5, 15, and 17, and their respective dependent claims, are also incomplete.

The Examiner also has not shown a teaching of every element of the dependent claims. For example, dependent claims 4 and 9 recite using **the descriptor** by the recipient to interpret the first object and using **the descriptor** by the recipient to interpret the second object, steps not shown by the Examiner. In the Final Office Action, the Examiner interprets the claimed descriptor as being taught by the interface descriptor of *Pelegri-Llopart et al.* (Final Office Action, p. 4.) However, the reference clearly teaches that the interface descriptor is “a list of interfaces” that is “associated with the object.” (*Pelegri-Llopart et al.*, col. 8, ll. 57-65.) Because the interface descriptor of the reference corresponds to an object, the same descriptor would not be used to interpret two different objects, as recited in dependent claims 4 and 9.

Because the Examiner has not shown that *Pelegri-Llopart et al.* teaches every element recited in the claims as required to support proper section 102 rejection, Applicants request the pre-appeal brief review and reversal of the erroneous rejections set forth in the Final Office Action.